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Report of the Special Rapporteur on the rights of persons with disabilities on her mission to the Republic of Moldova: comments by the State

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the comments by the State on the report of the Special Rapporteur on the rights of persons with disabilities on her mission to the Republic of Moldova.

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Report of the Special Rapporteur on the rights of persons with disabilities on her mission to the Republic of Moldova: comments by the State*

Comments on the Report of the Special Rapporteur on the rights of persons with disabilities, Catalina Devandas-Aguilar, on her mission to the Republic of Moldova (from 10 to 17 September 2015)

- The Government of the Republic of Moldova welcomes the visit of Ms. Catalina Devandas-Aguilar during 10-17 September 2015 for a fact-finding mission, including to the Transnistrian region of the country. During this visit, the Government demonstrated openness for continuous dialogue and cooperation with the UN Special Rapporteur.
- The Moldovan authorities take note of the Report, conclusions and recommendations. These have been carefully examined and they will be taken into account during the improvement process of the rights of persons with disabilities in the Republic of Moldova.
- As was stated during the country visit and mentioned in the Report itself, the ratification by Republic of Moldova of the UN Convention on the Rights of Persons with Disabilities, marked a significant change in the disability field, as the Convention has come with a new concept in approaching this category of people, namely: addressing persons with disabilities, not only through social protection and health paradigm, but first all in terms of human rights and social inclusion of persons with disabilities, recognizing their human value, enjoying the same civil, political, social, cultural rights, as other citizens.
- The Government is aware that for effective protection of human rights, functional structures, independent and effective legal mechanisms are needed, as well as the existence of community key services, with full responsibility of local authorities. Permanent challenges relate to the legacy from the Soviet time. Excessive institutionalization, segregation of people and the lack of sufficient social services at community level, are creating critical gaps in human rights protection.
- Currently the Government is engaged in drafting an action plan for the ratification of the Optional Protocols to the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities and the Council Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) – demonstrating realistic assumption and irrevocable commitment to protect human rights, based on international principles.
- As for the key challenges identified by the Special Rapporteur, the Government of the Republic of Moldova would like to point out the following preliminary comments and clarifications to the Unedited version of the Report:

* Reproduced as received.

A. Disability prevalence in the Republic of Moldova

- **Para.8** – after „...there is a lack of disaggregated data relating to persons with disabilities in the Republic of Moldova", to add „and the only available data refers to sex and age based on administrative records of National Insurance House".

B. The legal framework

Comments:

- **Para.10 - to be revised taking into account the following comment** – In recent years, after ratifying the UN Convention on the Rights of Persons with Disabilities, there has been registered a progress in moving towards social inclusion of people with disabilities, were developed and approved several pieces of legislation, which are regulating and monitoring the reforms in the field. Thus, besides the Law No. 60 on social inclusion of people with disabilities, between 2010-2013, the Strategy for social inclusion of people with disabilities was in force;
- Ministry of Labour, Social Protection and Family has started the process of eradication of stigma and exclusion, by transition from medical model of disability to the social model, for ensuring the rights of persons with disabilities, accelerating reforms in the field of legal capacity and de-institutionalization, as to ensure transition from institutional care, to community care;
- With the support of the UNDP, there was conducted a feasibility study on the ratification of Optional Protocol to the UN Convention on the Rights of Persons with Disabilities. The study was consulted with public authorities and the civil society, and in 2016 a bill for the ratification of the Optional Protocol will be drafted;

C. The institutional framework

Comments:

- **Para.14** – the words „2005 Law on Local Public Finances", to be replaced with „2003 Law on Local Public Finances and its subsequent amendments"
- **Para.14 - to be revised taking into account the following comment** – In 2015, along with the implementation of the Law on local public finances, difficulties were reported on funding the social services by local governments. Thus, in 2016 the Ministry of Labour, Social Protection and Family will propose to the Ministry of Finance some amendments to the Law on local public finances, by which will be required that certain types of social services shall by subsidized from the state budget. This measure is strictly necessary to ensure the deinstitutionalization process.

D. Ineffective and inequitable certification of disability

Comments:

- **Para.24 - to be revised taking into account the following comment** – Government Decision No. 65 of January 23, 2013 „On determination of disability and working capacity", reformed the Republican Council of Vitality Medical Expertise and reorganized it in the National Council for Disability and Working Capacity

Determination, specifically aiming the transition from the medical model to the medico-social model in the determination of disability process. The process allowed to employ social workers and psychologists in the framework of expert teams, as well as, developed and approved new criteria for determining disability and working capacity;

- Although there have been taken some steps to modernize the system, it is still necessary to work further for improving this process, including, by improving the institutional structure, the criteria for determining disability, training of specialists involved in the process, developing rehabilitation services, including, professional one. These are the objectives for the next period and the Ministry of Labor, Social Protection and Family has already requested the support of the UN agencies, including UNDP, UNICEF, WHO. In January 2016 consultations will be initiated for deepening reforms in determining disability and the technical assistance needs for the next period, as well as identifying partners, which will provide support in this process.

E. Lack of accessibility

Comments:

- **Para.28- to be revised taking into account the following comment** – Recently, a Planning and Construction Code has been drafted, which determines the need to ensure access for people with disabilities to socio-economic and cultural infrastructure through adequate urban planning and building designing documentation. The aforementioned document is under consideration in the Government.

F. Participation

Comments:

- **Para.34 - to be revised taking into account the following comment** – In this para, the Rapporteur reffers to some activity carried aut by Central Electoral Commission only during the the 2014 Parliamentary elections, whereas there were also a number of activities during the General Local Elections from 14 June 2015. Thus, for the General Local Elections, the voting procedure with perforated tires for independent voting for persons with visual disabilities and special informative materials about elections, have been extended to all polling stations from the country. Also, according to the Instruction on the insurance of the polling stations' infrastructure, approved by CEC Decision no. 2625 of 12 August 2014, all polling stations were equipped with special secret voting booths for persons with mobility impairments. CEC prepared for the Electoral Bureaus a questionnaire in order to analyze the accessibility of the electoral process. The information and civic education video spots, as well as the CEC meetings from the Elections Day and the following day were accompanied by the Sign Language Translation.

- In December 2015, CEC has already prepared a Regulation on the accessibility of the electoral process for people with disabilities that will be adopted by the beginning of the 2016 and will be applied for future electoral events. The document intends to regulate and ensure unhindered and non-discriminatory access of people with disabilities to the electoral processes as voters, candidates and electoral officials. Regulation will be addressed to the Central Electoral Commission, Center

for Continuous Electoral Trainings, Lower electoral bodies, Local Public Authorities, electoral candidates and Media.

- **Para.35- to be revised taking into account the following comment** – The participation of people with disabilities in political and public life is set out in art. 7 of the Law on social inclusion of people with disabilities. People with disabilities can effectively and fully participate in political and public life on equal terms with other citizens. In the process of drafting legislation in the field, all drafts prepared are consulted with the responsible authorities, including civil society. The information is placed on the website of the Ministry of Labour, Social Protection and Family for public consultation. Thus, in the consultation process on legislation drafting in the field of social protection of persons with disabilities, every citizen can participate, including persons with disabilities and the civil society.

- The Ministry of Labour, Social Protection and Family is efficiently cooperating with several associations, including: Alliance of Organizations of Persons with Disabilities, Center for legal assistance for persons with disabilities, Association of the Deaf, the Blind Society, the Society of Disabled, the Union of Disabled People Organisations of Moldova, "KEYSTONE Moldova", etc., to which all drafts concerning people with disabilities have been addressed for examination and comment. There are regularly organized working sessions through which the draft laws are discussed with people with disabilities and non-governmental associations, which are representing their interests.

G. Right to social protection, live independently and be included within the community

Comments:

- **Para.43- to be revised taking into account the following comment** – Under the legislation in force, people with disabilities enjoy a range of social benefits, including the disability pensions, or, where appropriate, state social allowances, state financial support, compensation for urban, suburban and interurban transport, annual compensation for transport of disabled people and social aid and welfare aid for the cold season, as well as material aid. It is important to note that, periodically are occuring increases in social benefits, based on the available financial resources. Every year, on 1st April, the indexation of social security (including pensions) and social assistance benefits takes place. The indexation coefficient is calculated as the average between the annual growth of the consumer price index and the annual growth of the average salary, per country, for the previous year.

- **Para.45- to be revised taking into account the following comment** – In the context of de-institutionalisation process, the Ministry of Labour, Social Protection and Family is actively collaborating with NGO "KEYSTONE Moldova", which has implemented over several years the "Community for All-Moldova" project. Under the support of the mentioned project 123 children and adults with disabilities were de-institutionalised from the boarding house of Orhei;

- **Para.46 to be revised taking into account the following comment** – Recently, the Ministry of Labour, Social Protection and Family has set a Moratorium to institutionalization, for any new admissions in residential institutions (children and adults). Thus, by Order no. 202 of 11 December 2015 of the Minister of Labour, Social Protection and Family, a multisectoral working group has been established, examining the requests for exceptional placement in residential institutions and in special circumstances. The working group members are representatives of the

responsible public authorities (Ministry of Labour, Social Protection and Family, Ministry of Health) and pro-eminent civil society actors ("Keystone Human Services International Moldova Association" and Human Rights Institute), and the mandate of the working group consists in examining the requests for placement in residential social institutions, submit recommendations for referral of cases examined for other alternative social services at the community level. The placement is accepted only in exceptional cases, when there is no alternative and it is endangering the lives and health of people with disabilities, and the duration of placement shall be for a fixed period (temporary period - from 6 months to a maximum of one year). During the placement the local public authority is responsible to take concrete steps and identify alternative social services to residential care.

H. Deprivation of liberty on the basis of disability and the forced treatment of persons with disabilities

Comments:

- **Para.50 - to be revised taking into account the following comment** – The National Strategy on the Reform of the residential system of childcare for 2007-2012 and the Action Plan on reforming the residential system of childcare for 2007-2012 (Government Decision no. 784 from 09 July 2007), has initiated the evaluation process and re-integration of children in families and communities from the system of residential care and the educational inclusion of children in general education institutions.
- In the context of the reform of the residential child care, there is a positive trend of reducing the number of institutionalized children. If during the early stages of residential system reform in 2007 over 11 thousand children were placed in 65 residential institutions for children, then at the end of 2013 the residential system included 41 institutions with 3808 placed children, of which 36 (2447 placed children) were under the subordination of the Ministry of Education (1145 children placed in auxiliary schools).